

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF DELAWARE

JARID L. CUBBAGE, )  
                        )  
Petitioner,         )  
                        )  
v.                     ) Civil Action No. 05-798-GMS  
                        )  
                        )  
THOMAS CARROLL,     )  
Warden, and CARL L. )  
DANBERG, Attorney )  
General of the State )  
of Delaware,         )  
                        )  
                        )  
Respondents.         )

O R D E R

WHEREAS, you have filed a form petition and papers for federal habeas corpus relief pursuant to 28 U.S.C. § 2254 and requested leave to proceed in forma pauperis pursuant to 28 U.S.C. § 1915; and

WHEREAS, based on the information in your affidavit, your request to proceed in forma pauperis is granted; and

WHEREAS, the Antiterrorism and Effective Death Penalty Act of 1996 ("AEDPA"), 28 U.S.C. § 2244, effectively precludes petitioners from filing a second or subsequent habeas petition except in the most unusual of circumstances; and

WHEREAS, the United States Court of Appeals for the Third Circuit has mandated that, before ruling on the merits of your petition, you must be given notice that the AEDPA applies to

your pending petition, see United States v. Miller, 197 F.3d 644 (3d Cir. 1999) and Mason v. Meyers, 208 F.3d 414 (3d Cir. 2000).

NOW, THEREFORE, IT IS ORDERED this 20<sup>th</sup> day of December, 2005, that, on or before January 20, 2006, you must file with the Court, the attached election form.

Failure to timely return the completed election form will result in the Court's ruling on your pending petition as filed.



A handwritten signature in black ink, appearing to read "J. H. GUTH", is placed above a horizontal line. Below the line, the text "United States District Judge" is printed in a standard font.

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**AEDPA ELECTION FORM**

1. \_\_\_\_\_ I wish the Court to rule on my § 2254 petition as currently pending. I realize that the law does not allow me to file successive or later petitions unless I receive certification to do so from the United States Court of Appeals for the Third Circuit; therefore, this petition will be my one opportunity to seek federal habeas corpus relief.
2. \_\_\_\_\_ I wish to amend my § 2254 petition to include all the grounds I have. I will do so within thirty (30) days. I realize that the law does not allow me to file successive or later petitions unless I receive certification to do so from the United States Court of Appeals for the Third Circuit; therefore, this amended all-inclusive petition will be my one opportunity to seek federal habeas corpus relief.
3. \_\_\_\_\_ I wish to withdraw my § 2254 petition

without prejudice to file one all-inclusive petition in the future; that is, one that raises all the grounds I have for federal habeas corpus relief. I realize this all-inclusive petition must be filed within the one-year period as defined by 28 U.S.C. § 2244(d). See Swartz v. Meyers, 204 F.3d 417 (3d Cir. 2000).

4. \_\_\_\_\_ I am not seeking federal habeas corpus relief under § 2254. I am instead seeking relief under \_\_\_\_\_.

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Petitioner